

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
(MARSHALL DIVISION)**

**TONY VINCE GARCIA, a Resident  
of Oklahoma  
and  
SHAWN GIBSON TRUCKING L.L.C.,  
An Oklahoma Limited Liability Company,**

**Plaintiffs,**

**-VS-**

**BOWIE-CASS ELECTRIC COOPERATIVE, INC.  
and  
SHAWN McCOY HENDERSON,  
a Texas Resident,**

## Defendants.

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**)CASE NUMBER: 2:14-CV-876**  
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**)Jury trial Requested**  
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## COMPLAINT

Plaintiffs, Tony Garcia and Shawn Gibson Trucking L.L.C., by and through their attorney, J.P. Longacre, and for their said cause of action against the Defendants allege and state as follows:

## JURISDICTION

- 1) Plaintiff, Tony Garcia, is now and was at all times relevant to this claim a resident of McCurtain County, Oklahoma.
- 2) Plaintiff, Shawn Gibson Trucking L.L.C., is now and was at all times relevant to this claim a resident of Oklahoma.
- 3) Defendant Shawn Henderson, is now and was at all times relevant to this claim a resident of the State of Texas.
- 4) Defendant Bowie-Cass Electric Cooperative, Inc., is now and was at all

times relevant to this claim a Texas Domestic Nonprofit Corporation registered with the Texas Secretary of State and having a principal place of business in the State of Texas.

- 5) The matter in controversy exceeds, exclusive of interests and costs, the sum of \$75,000.00.
- 6) Jurisdiction is established in this Court under the above alleged facts, all as provided by 28 U.S.C. §1332 and 28 U.S.C §1367(b).

### **VENUE**

- 7) Venue is proper in this Court as the collision and acts giving rise to this case occurred in Morris County, State of Texas which is located within the Eastern District of Texas (Marshall Division), all as provided by 28 U.S.C. §1391.

### **FACTS MATERIAL TO GARCIA'S CLAIMS**

- 8) On or about July 9, 2013, Plaintiff, Tony Garcia was traveling East on US Highway 67 in Morris County, Texas. Defendant Henderson was traveling on U.S. Highway 77 and attempted to make a left turn onto US Highway 67. Defendant Henderson failed to yield right-of-way and made an unsafe left turn. Plaintiff Garcia attempted to avoid colliding with the vehicle operated by Defendant Henderson. As a result of said negligence Defendant Henderson's vehicle collided with the 2007 Peterbuilt owned by Shawn Gibson Trucking, L.L.C.
- 9) As a result of the vehicle collision Tony Garcia suffered injuries to his person.

### **FACTS MATERIAL TO SHAWN GIBSON TRUCKING, L.L.C. CLAIM**

- 10) On or about July 9, 2013, Plaintiff, Shawn Gibson Trucking, L.L.C., was the owner of the 2007 Silver Peterbuilt tractor trailer operated by Tony Garcia. On said date Garcia was traveling East in said Peterbuilt on US Highway 67 in Morris County, Texas. Defendant Henderson was traveling on U.S. Highway 77 and attempted to make a left turn onto US Highway 67. Defendant Henderson failed to yield right-of-way and made an unsafe left turn. As a result of said negligence Defendant Henderson's vehicle collided with the 2007 Peterbuilt owned by Shawn Gibson Trucking, L.L.C.

### **AGENCY/VICARIOUS LIABILITY**

- 11) At the time of the collision Defendant Henderson was operating a 2005 Chevrolet C4500 owned by Defendant Bowie-Cass Electric Cooperative. At all times relevant hereto, an employee/employer relationship existed between Henderson and Bowie-Cass Electric Cooperative
- 12) At the time of the collision serving as a basis for this suit Henderson was acting as an employee on behalf of Bowie-Cass Electric Cooperative and was acting within the scope of said employment.
- 13) Bowie-Cass Electric Cooperative is vicariously liable for the acts of Defendant Henderson who directly and proximately caused said collision.

### **TONY GARCIA'S DAMAGES**

- 14) For his injuries Tony Garcia was required to seek medical treatment which resulted in economic damages. Likewise, Tony suffered multiple injuries

including a static scapholunate ligament injury with disassociation of the right wrist which required surgical correction. As a result of the injuries sustained Mr. Garcia has suffered mental anguish and physical pain and suffering and will suffer mental anguish, physical pain and suffering in the future. Tony's injury to his wrist is permanent. His care and treatment spanned over a year. He missed approximately seven (7) months of work and suffered loss of income as a result thereof. Plaintiff has suffered past damages described herein and will suffer future damages described herein for which the amount sought exceeds \$75,000.00.

**SHAWN GIBSON TRUCKING, L.L.C. DAMAGES**

- 15) As a result of the collision between Henderson and Garcia the Plaintiff Shawn Gibson Trucking L.L.C. suffered economical injuries for out of pocket expenses and damages to its property. More specifically, it suffered damages to the Peterbuilt tractor trailer which included wrecker service, truck body repair, chassis/suspension/powertrain repair, and loss of use of subject vehicle. Likewise Plaintiff suffered out of pocket expenses for payments to Tony Garcia for wages and medical bills. Damages as alleged herein are approximately \$35,108.51. Admittedly, Plaintiff's damages do not exceed \$75,000.00. However, this Court exercises jurisdiction over Shawn Gibson Trucking L.L.C., under 28 U.S.C. §1367.
- 16) Plaintiff Garcia respectfully prays for judgment against the Defendant for damages in excess of \$75,000.00, however the exact amount will be proven at trial.

- 17) Plaintiff Shawn Gibson Trucking, L.L.C. prays for judgment against Defendants for damage to its property and economic loss sustained as a result of the collision for an amount less than \$75,000.
- 18) Lastly, in addition to judgment against defendants, both Plaintiffs request fees and costs of this claim and any other relief that they may be entitled as the Court deems just and proper.

Respectfully submitted,  
J.P. Longacre, P.C.

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ATTORNEY LIEN CLAIMED